

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	LA CV 15-7441 DDP (JCG)	Date	November 28, 2016
Title	<i>Chris Witham v. Warden Fox, et al.</i>		

Present: The Honorable	Jay C. Gandhi, United States Magistrate Judge
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Kristee Hopkins

None Appearing

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendants:

None Appearing

None Appearing

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE WHY COMPLAINT SHOULD NOT BE DISMISSED FOR FAILURE TO COMPLY WITH COURT ORDER AND/OR PROSECUTE

On September 23, 2015, plaintiff Chris Witham (“Plaintiff”), a federal prisoner proceeding *pro se*, filed a Complaint pursuant to 42 U.S.C. § 1983 (“Complaint”). [Dkt. No. 1.] At that time, Plaintiff **did not** pay the filing fee and **did not** file a Request to Proceed Without Prepayment of Filing Fees. [Dkt. No. 2.]

On December 23, 2015, the Court found and denied an implied Request to Proceed Without Prepayment of Filing Fees (the “2015 Order”). [Dkt. No. 5.] The Court specified that the denial was “without prejudice to Plaintiff’s re-filing of his Complaint within 30 days, provided Plaintiff also submit a fully completed Request to Proceed Without Prepayment of Filing Fees with Declaration in Support (Form CV-60P).” [*Id.*]

On January 11, 2016, the Court received \$5.00 from another individual on behalf of Plaintiff. However, Plaintiff must pay a total of \$400 (i.e., \$350.00 in filing fees plus \$50.00 in administrative fees) in order to sustain this action. *See Saffold v. Hartley*, 2016 WL 5404399, at *2 (E.D. Cal. Sept. 27, 2016) (“For civil rights cases . . . the fee is now \$400 and under the Prisoner Litigation Reform Act the prisoner is required to pay it, even if granted in forma pauperis status, by way of deductions from income to the prisoner's trust account.”).

Absent payment of those fees, and because Plaintiff has not—as outlined in the 2015 Order—re-filed the Complaint with a Request to Proceed Without Prepayment of Filing Fees, the Complaint may be dismissed. *See Mitchell v. Gutierrez*, 2013 WL

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2898061, at *2 (C.D. Cal. June 12, 2013) (“It therefore is [ordered] that this action is dismissed . . . for failure to prosecute and because Plaintiff has failed to pay the . . . filing fee and has offered no explanation for not doing so.”).

Accordingly, within **fourteen days** of this Order, Plaintiff is **ORDERED TO SHOW CAUSE**, in writing, why this action should not be dismissed for failure to pay the requisite fees and/or prosecute. Plaintiff need not separately respond to this Order to Show Cause if, **within fourteen days of the date of this Order**, he: (1) pays a total of \$400 in fees; **OR** (2) re-files a Complaint and fully completed Request to Proceed Without Prepayment of Filing Fees with Declaration in Support (Form CV-60P).

Plaintiff is cautioned that his failure to timely file a response will be deemed by the Court as consent to the dismissal of this action without prejudice.

cc: Parties of Record

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 Initials of Preparer kh